

SENATE BILL No. 583

DIGEST OF INTRODUCED BILL

Citations Affected: IC 25-1; IC 25-11-1.

Synopsis: Collection agency licensing. Creates the collection agency licensing board. Transfers control of collection agency licensing from the secretary of state to the collection agency licensing board.

Effective: July 1, 2001.

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January 23, 2001, read first time and referred to Committee on Commerce and Consumer Affairs.

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First Regular Session 112th General Assembly (2001)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2000 General Assembly.

SENATE BILL No. 583

A BILL FOR AN ACT to amend the Indiana Code concerning professions and occupations.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 25-1-2-6, AS AMENDED BY P.L.82-2000,
2 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2001]: Sec. 6. (a) As used in this section, "license" includes
4 all occupational and professional licenses, registrations, permits, and
5 certificates issued under the Indiana Code, and "licensee" includes all
6 occupational and professional licensees, registrants, permittees, and
7 certificate holders regulated under the Indiana Code.
8 (b) This section applies to the following entities that regulate
9 occupations or professions under the Indiana Code:
10 (1) Indiana board of accountancy.
11 (2) Indiana grain buyers and warehouse licensing agency.
12 (3) Indiana auctioneer commission.
13 (4) Board of registration for architects and landscape architects.
14 (5) State board of barber examiners.
15 (6) State board of cosmetology examiners.
16 (7) Medical licensing board of Indiana.
17 (8) Secretary of state.



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- (9) State board of dentistry.
- (10) State board of funeral and cemetery service.
- (11) Worker's compensation board of Indiana.
- (12) Indiana state board of health facility administrators.
- (13) Committee of hearing aid dealer examiners.
- (14) Indiana state board of nursing.
- (15) Indiana optometry board.
- (16) Indiana board of pharmacy.
- (17) Indiana plumbing commission.
- (18) Board of podiatric medicine.
- (19) Private detectives licensing board.
- (20) State board of registration for professional engineers.
- (21) Board of environmental health specialists.
- (22) State psychology board.
- (23) Indiana real estate commission.
- (24) Speech-language pathology and audiology board.
- (25) Department of natural resources.
- (26) State boxing commission.
- (27) Board of chiropractic examiners.
- (28) Mining board.
- (29) Indiana board of veterinary medical examiners.
- (30) State department of health.
- (31) Indiana physical therapy committee.
- (32) Respiratory care committee.
- (33) Occupational therapy committee.
- (34) Social worker, marriage and family therapist, and mental health counselor board.
- (35) Real estate appraiser licensure and certification board.
- (36) State board of registration for land surveyors.
- (37) Physician assistant committee.
- (38) Indiana dietitians certification board.
- (39) Indiana hypnotist committee.
- (40) **Collection agency licensing board.**
- (41) Any other occupational or professional agency created after June 30, 1981.

(c) Notwithstanding any other law, the entities included in subsection (b) shall send a notice of the upcoming expiration of a license to each licensee at least sixty (60) days prior to the expiration of the license. The notice must inform the licensee of the need to renew and the requirement of payment of the renewal fee. If this notice of expiration is not sent by the entity, the licensee is not subject to a sanction for failure to renew if, once notice is received from the entity,



the license is renewed within forty-five (45) days of the receipt of the notice.

SECTION 2. IC 25-1-6-3, AS AMENDED BY P.L.82-2000, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 3. (a) There is established the Indiana professional licensing agency. The licensing agency shall perform all administrative functions, duties, and responsibilities assigned by law or rule to the executive director, secretary, or other statutory administrator of the following:

- (1) Indiana board of accountancy (IC 25-2.1-2-1).
- (2) Board of registration for architects and landscape architects (IC 25-4-1-2).
- (3) Indiana auctioneer commission (IC 25-6.1-2-1).
- (4) State board of barber examiners (IC 25-7-5-1).
- (5) State boxing commission (IC 25-9-1).
- (6) State board of cosmetology examiners (IC 25-8-3-1).
- (7) State board of funeral and cemetery service (IC 25-15-9).
- (8) State board of registration for professional engineers (IC 25-31-1-3).
- (9) Indiana plumbing commission (IC 25-28.5-1-3).
- (10) Indiana real estate commission (IC 25-34.1).
- ~~(11) Until July 1, 1996, Indiana State board of television and radio service examiners (IC 25-36-1-4).~~
- ~~(12)~~ **(11)** Real estate appraiser licensure and certification board (IC 25-34.1-8-1).
- ~~(13)~~ **(12)** Private detectives licensing board (IC 25-30-1-5.1).
- ~~(14)~~ **(13)** State board of registration for land surveyors (IC 25-21.5-2-1).

(14) Collection agency licensing board (IC 25-11-1-2.5).

(b) Nothing in this chapter may be construed to give the licensing agency policy making authority, which remains with each board.

SECTION 3. IC 25-1-8-1, AS AMENDED BY P.L.82-2000, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 1. As used in this chapter, "board" means any of the following:

- (1) Indiana board of accountancy (IC 25-2.1-2-1).
- (2) Board of registration for architects and landscape architects (IC 25-4-1-2).
- (3) Indiana auctioneer commission (IC 25-6.1-2-1).
- (4) State board of barber examiners (IC 25-7-5-1).
- (5) State boxing commission (IC 25-9-1).
- (6) Board of chiropractic examiners (IC 25-10-1).

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- 1 (7) State board of cosmetology examiners (IC 25-8-3-1).
- 2 (8) State board of dentistry (IC 25-14-1).
- 3 (9) State board of funeral and cemetery service (IC 25-15).
- 4 (10) State board of registration for professional engineers
- 5 (IC 25-31-1-3).
- 6 (11) Indiana state board of health facility administrators
- 7 (IC 25-19-1).
- 8 (12) Medical licensing board of Indiana (IC 25-22.5-2).
- 9 (13) Mining board (IC 22-10-1.5-2).
- 10 (14) Indiana state board of nursing (IC 25-23-1).
- 11 (15) Indiana optometry board (IC 25-24).
- 12 (16) Indiana board of pharmacy (IC 25-26).
- 13 (17) Indiana plumbing commission (IC 25-28.5-1-3).
- 14 (18) Board of environmental health specialists (IC 25-32-1).
- 15 (19) State psychology board (IC 25-33).
- 16 (20) Speech-language pathology and audiology board
- 17 (IC 25-35.6-2).
- 18 (21) Indiana real estate commission (IC 25-34.1-2-1).
- 19 (22) Indiana board of veterinary medical examiners
- 20 (IC 15-5-1.1-3).
- 21 (23) Department of insurance (IC 27-1).
- 22 (24) State police department (IC 10-1-1-1), for purposes of
- 23 certifying polygraph examiners under IC 25-30-2.
- 24 (25) Department of natural resources for purposes of licensing
- 25 water well drillers under IC 25-39-3.
- 26 (26) Private detectives licensing board (IC 25-30-1-5.1).
- 27 (27) Occupational therapy committee (IC 25-23.5-2-1).
- 28 (28) Social worker, marriage and family therapist, and mental
- 29 health counselor board (IC 25-23.6-2-1).
- 30 (29) Real estate appraiser licensure and certification board
- 31 (IC 25-34.1-8).
- 32 (30) State board of registration for land surveyors
- 33 (IC 25-21.5-2-1).
- 34 (31) Physician assistant committee (IC 25-27.5).
- 35 (32) Indiana athletic trainers board (IC 25-5.1-2-1).
- 36 (33) Board of podiatric medicine (IC 25-29-2-1).
- 37 (34) Indiana dietitians certification board (IC 25-14.5-2-1).
- 38 (35) Indiana physical therapy committee (IC 25-27).
- 39 (36) **Collection agency licensing board (IC 25-11-1-2.5).**
- 40 (37) Any other occupational or professional agency created after
- 41 June 30, 1981.
- 42 SECTION 4. IC 25-11-1-1.5 IS ADDED TO THE INDIANA CODE

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1 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
2 1, 2001]: **Sec. 1.5.** As used in this chapter, "board" refers to the
3 collection agency licensing board established by section 2.5 of this
4 chapter.

5 SECTION 5. IC 25-11-1-2.5 IS ADDED TO THE INDIANA CODE
6 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
7 1, 2001]: **Sec. 2.5.** (a) The collection agency licensing board is
8 established.

9 (b) The board consists of seven (7) members appointed by the
10 governor, not more than four (4) of whom may be affiliated with
11 the same political party. Six (6) of the board members must be
12 licensed under this chapter and must have had at least five (5)
13 years experience as a collection agent before their appointment.
14 One (1) member is to represent the general public and must be:

15 (1) a resident of Indiana; and

16 (2) in no way associated with the profession of a collection
17 agency other than as a consumer.

18 (c) All members are appointed for a term of three (3) years and
19 serve until their successors are appointed and qualified. A vacancy
20 occurring on the board shall be filled by the governor by
21 appointment. Each appointed member serves for the unexpired
22 term of the vacating member.

23 (d) Each member of the board who is not a state employee is
24 entitled to the minimum salary per diem provided by
25 IC 4-10-11-2.1(b). Each member is also entitled to reimbursement
26 for traveling expenses as provided under IC 4-13-1-4 and other
27 expenses actually incurred in connection with the member's duties
28 as provided in the state policies and procedures established by the
29 Indiana department of administration and approved by the budget
30 agency.

31 (e) The members of the board shall organize by the election of
32 a chairperson and a vice chairperson from among its membership.
33 The officers serve for a term of one (1) year. The board shall meet
34 at least once each year and on other occasions as it considers
35 necessary and advisable. A meeting of the board may be called by
36 its chairperson or by a majority of the members on the board. Four
37 (4) members of the board constitute a quorum for the transaction
38 of business. All decisions are required to be made by a majority
39 vote of the quorum.

40 (f) The professional licensing agency shall provide a secretary
41 of the board and other personnel necessary for the proper
42 performance of the board's duties and responsibilities under this

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chapter.

SECTION 6. IC 25-11-1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 3. (a) Any person desiring to conduct a collection agency shall make an application to the ~~secretary of state~~ **board** upon ~~such~~ forms as may be prescribed by the ~~secretary of state~~. **Such board.** The application ~~shall~~ **must** include the following:

- (1) If the applicant is an individual:
 - (A) the individual's name;
 - (B) the individual's residence address;
 - (C) the address of each location from which the individual carries out the activities of the collection agency; and
 - (D) a statement that the individual satisfies the qualifications set forth in section 4 of this chapter.
- (2) If the applicant is a partnership:
 - (A) the name of each partner;
 - (B) the business address of the partnership;
 - (C) the residence address of at least one (1) of the partners;
 - (D) the address of each location from which the partnership carries out the activities of the collection agency; and
 - (E) a statement that each partner in the partnership satisfies the qualifications set forth in section 4 of this chapter.
- (3) If the applicant is a limited liability company:
 - (A) the date and place of organization;
 - (B) the name of the limited liability company;
 - (C) the business address of the limited liability company;
 - (D) the residence address of at least one (1) of the managers or members of the limited liability company; and
 - (E) a statement that each of the managers and members in the limited liability company satisfies the qualifications set forth in section 4 of this chapter.
- (4) If the applicant is a corporation:
 - (A) the date and place of incorporation;
 - (B) the name of the corporation;
 - (C) the business address of the corporation;
 - (D) the residence address of at least one (1) of the officers of the corporation; and
 - (E) a statement that each of the officers of the corporation satisfies the qualifications set forth in section 4 of this chapter.

The application shall be duly sworn to before an officer qualified to administer oaths. The application shall set forth therein any other verified information which will assist the ~~secretary of state~~ **board** in

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determining the qualifications of the applicant to meet the requirements of a collection agency as hereinunder set forth.

(b) Every original and renewal application of any person desiring to conduct a collection agency shall be accompanied by a fee of one hundred dollars (\$100) plus an additional fee of thirty dollars (\$30) for each branch office operated by the applicant whether as sole owner, partnership, limited liability company, or corporation.

(c) Any person desiring to secure a renewal of a collection agency license shall make a renewal application to the **secretary of state board** not later than January 1 of the year following the year in which the person's license expires under section 5 of this chapter. The application shall be made on such forms as the **secretary of state board** may prescribe. Such application shall contain therein verified information that will assist the **secretary of state board** in determining whether or not the applicant is in default, or is in violation of any of the provisions of this chapter, and whether or not the applicant has at all times complied with the requirements of this chapter in the operation of the applicant's collection agency.

(d) Each renewal application shall be accompanied by the renewal fee and an additional fee of thirty dollars (\$30) for each branch office maintained and operated by the applicant.

(e) Every original and renewal application shall be accompanied by the following:

- (1) A corporate surety bond in the sum of five thousand dollars (\$5,000) for each office the applicant operates in the state of Indiana. All bonds shall run to the people of the state of Indiana and shall be furnished by a surety company authorized to do business in this state. All bonds shall be conditioned upon the faithful accounting of all money collected upon accounts entrusted to such person and shall be continuous in form and shall remain in full force and effect and run continuously with the license period and any renewal thereof. All bonds shall further be conditioned upon the provision that the applicant shall, within sixty (60) days from the date of the collection of any claim, render an account of and pay to the client, for whom collection has been made, the proceeds of such collection less the charges for collection agreed upon by and between the applicant and the client. All bonds shall be filed in the office of the **secretary of state board** and shall be approved by the **secretary of state board** before being filed. All bonds filed and approved shall be for the use and benefit of all persons damaged by the wrongful conversion of any money by such person, and any individual so

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injured or aggrieved may bring an action upon such bond. The surety company may notify the secretary of state and principal of its desire to terminate its liability under any bond furnished. Thirty (30) days after receipt of such notice by the ~~secretary of state, board,~~ the ~~secretary of state board~~ shall thereupon require the principal to file a new bond or discontinue all operations. If a new bond is filed by the principal all liability under any previous bond shall thereupon cease and terminate. If a new bond shall not be filed within the thirty (30) day period above specified the ~~secretary of state board~~ shall, after expiration of the period, revoke the principal's license.

(2) Any applicant who is a nonresident of the state of Indiana shall also submit a statement appointing an agent or attorney resident herein, upon whom all legal process against the applicant may be served. The statement shall contain a stipulation that the applicant agrees that service of legal process upon such agent or attorney shall be valid service upon the applicant.

SECTION 7. IC 25-11-1-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 5. (a) The ~~secretary of state board~~ shall investigate the qualifications of the applicant and if the applicant meets the qualifications of this chapter the ~~secretary of state board~~ shall approve the application. If the application is approved the license shall be issued forthwith to the applicant. All licenses are valid for two (2) years and shall expire on the thirty-first day of December of the year following the year in which the license was issued. If the application for a license is denied, the application fees shall be retained by the ~~secretary of state board~~.

(b) The ~~secretary of state board~~ shall issue a license to any person who holds and presents with the application a valid and subsisting license to operate a collection agency issued by another state or state agency if:

(1) the requirements for the securing of such license were, at the time of issuance, substantially the same or equal to the requirements imposed by this chapter;

(2) the state concerned extends reciprocity under similar circumstances to licensed collection agencies of this state; and

(3) the application is accompanied by the fees and financial bonding requirements as provided in this chapter.

(c) In the event of the death of an individual licensee, the dissolution of a licensee partnership by death or operation of law, or the termination of employment of the active manager if the licensee is a firm, partnership, limited liability company, or corporation, upon a

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showing that the bonding requirements provided for in this chapter are complied with, the **secretary of state board** shall issue, without a fee, a provisional license to the personal representative of the deceased, the personal representative's appointee, the surviving partner, the firm, the limited liability company, or the corporation, as the case may be, which shall be for the following purposes only and shall expire at the following times:

(1) A provisional license issued to a personal representative or a personal representative's appointee expires one (1) year from the date of the issuance and shall not be subject to renewal. The authority of the provisional license so issued shall be limited to such activities as may be necessary to terminate the business of the former licensee.

(2) All other provisional licenses expire three (3) months from the date of issuance unless the provisional licensee, within this period, can meet the requirements for a full license as provided in this chapter.

(d) A nonresident collection agency that has only incidental contact with a debtor is not required to be licensed under this chapter. As used in this subsection, "incidental contact" means contact on behalf of nonresident creditors using interstate communications, including telephone, mail service, or facsimile transmissions.

SECTION 8. IC 25-11-1-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 6. The **secretary of state board** shall keep in the **secretary of state's office of the board** a record of all applications for licenses and all bonds required to be filed, including a statement as to whether a license, renewal license, or provisional license has been issued under each application and bond, and if revoked or suspended, the date of the filing of the order of revocation or suspension. The **secretary of state board** shall maintain a list of all individuals, firms, partnerships, limited liability companies, or corporations who have had their license revoked or suspended, and the **secretary of state board** shall keep a written record of all complaints filed against any licensee. Each license issued shall contain the name and address of the licensee and a serial number. The record shall be open to inspection as public records.

SECTION 9. IC 25-11-1-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 8. The **secretary of state board** shall adopt and enforce such rules and regulations, not in conflict with the provisions of this chapter, as are advisable or necessary to carry out the provisions of this chapter. All money collected under the provisions of this chapter shall be deposited by the

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1 treasurer of state into the general fund of the state.

2 SECTION 10. IC 25-11-1-9 IS AMENDED TO READ AS
 3 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 9. Upon the filing with
 4 the ~~secretary of state, board~~ by any interested person, of a verified
 5 written complaint which charges any licensee hereunder with a specific
 6 violation of any of the provisions of this chapter, the ~~secretary of state~~
 7 **board** shall cause an investigation of the complaint to be made. If the
 8 investigation shows probable cause for the revocation or suspension of
 9 the license, the ~~secretary of state board~~ shall send a written notice to
 10 such licensee, stating in such notice the alleged grounds for the
 11 revocation or suspension and fixing a time and place for the hearing
 12 thereof. The hearing shall be held not less than five (5) days nor more
 13 than twenty (20) days from the time of the mailing of said notice. The
 14 ~~secretary of state board~~ may subpoena witnesses, books, and records
 15 and may administer oaths. The licensee may appear and defend against
 16 such charges in person or by counsel. If upon such hearing the
 17 ~~secretary of state board~~ finds the charges to be true, the ~~secretary of~~
 18 ~~state board~~ shall either revoke or suspend the license of the licensee.
 19 Suspension shall be for a time certain and in no event for a longer
 20 period than one (1) year. No license shall be issued to any person
 21 whose license has been revoked for a period of two (2) years from the
 22 date of revocation. Reapplication for a license, after revocation as
 23 provided, shall be made in the same manner as provided in this chapter
 24 for an original application for a license.

25 SECTION 11. IC 25-11-1-10 IS AMENDED TO READ AS
 26 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 10. Any decision of the
 27 ~~secretary of state board~~ revoking, suspending, or refusing to issue a
 28 license may be appealed to the circuit or superior court of Marion
 29 County or to the circuit or superior court of the county in which the
 30 licensee operates the alleged offending collection agency, for a trial de
 31 novo, and any judgment of the court may be appealed therefrom to the
 32 supreme court or the court of appeals, in the same manner as in civil
 33 cases, by either of the parties to the action.

34 SECTION 12. [EFFECTIVE JULY 1, 2001] (a) **The collection**
 35 **agency licensing authority of the office of the secretary of state is**
 36 **abolished and all rights, powers, and duties conferred upon the**
 37 **secretary of state for the purpose of licensing collection agencies**
 38 **before July 1, 2001, are continued in full force and effect, and are**
 39 **transferred to the collection agency licensing board established by**
 40 **IC 25-11-1-2.5, as added by this act.**

41 (b) **Any investigation, proceedings, hearing, or examination or**
 42 **any proceedings in any courts undertaken, commenced, or**



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1 instituted by or before June 30, 2001, may be conducted and
2 continued to a final determination by the collection agency
3 licensing board in the same manner and with the same effect.

4 (c) All contractual and other rights, legal or equitable, existing
5 on June 30, 2001, of, or created by, an act of the secretary of state
6 for the purpose of licensing collection agencies are saved,
7 continued, and transferred to the collection agency licensing board.

8 (d) All appropriations for and funds held by the secretary of
9 state for the purpose of licensing collection agencies are continued
10 and transferred to the collection agency licensing board.

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